

July 31, 2025

Ms. Marlene Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment* (WC Docket No. 17-84)

Dear Ms. Dortch:

USTelecom – The Broadband Association (“USTelecom”) hereby submits this letter in the above-referenced proceeding to highlight our members’ experiences with state and local permitting, including timelines and associated costs, as they work to deploy broadband across the country as quickly and efficiently as possible. Some states and localities have facilitated broadband deployment, recognizing the benefits it brings to their communities. Regrettably, other states’ and localities’ permitting processes have obstructed deployment. The requirements discussed below add delays and costs that too often cause communities to lose out on broadband deployment that otherwise would occur.

Processing times. With respect to processing times, our members have found that many states and localities do not provide and/or follow reasonable and transparent approval timelines, and approvals can take anywhere from a few days to a year-plus. In the State of New York, for example, approvals can range from 8 weeks to 6 months. In Ohio, one municipality refused to respond to, let alone process, a mid-sized broadband provider’s permitting request, leading the provider to abandon its deployment efforts in that town. One small provider in the South Central U.S. halted its deployment plans for years because of difficulty working with city permitting agencies. Another small provider has had difficulty obtaining permitting approval from the Oklahoma Highway Department needed for a project funded by the American Rescue Plan Act (“ARPA”). After several meetings over the course of several months, a single permit for 3 miles of construction in a right of way (“ROW”) was finally approved in the past few days. Yet, construction of the highway is not even planned for another 3-5 years. Under the terms of the provider’s ARPA grant, construction must be completed by the end of this October. While the provider will likely be able to complete the project by the deadline, the permitting delay associated with a highway that does not even exist will increase deployment costs—specifically, engineering costs and placement costs that were not accounted for in the provider’s funding application.

Our members have also found that timelines for permitting can vary substantially in the same community between individual reviewers, for instance, in cases where the community has multiple reviewers or if a reviewer leaves and is replaced by another reviewer. There are also significant variances among neighboring jurisdictions. For example, in Florida, there are three

cities where approvals take more than 90 days and two cities with 60-to-90-day approvals. This variance increases the likelihood of delays that can halt projects, and it generates uncertainty that reduces the business case for planning future investment.

Even where there are set permitting approval timelines in place, states and localities often do not follow them. For instance, while the Hawaii legislature passed a law nearly a decade ago imposing a broadband shot clock of 60 days, not a single permitting request has been subject to this shot clock because department agencies do not adhere to it. In another example, North Carolina has a 30-day permit review requirement for municipalities, but one broadband provider has found that some towns take 90 days or longer to review its permit requests. Unpredictable delays such as this rob providers of the certainty that is critical for large, long-term capital investments.

One particularly egregious example of a burdensome permitting process that causes deployment delays is in a mid-Atlantic city. The city's standard process is 5 months from initial submission of the permit application to a vote on the application at a commission planning meeting. If, however, a single requirement is not met, the development council's review of the permitting request is moved to the next month. For instance, during the process, a provider must send a mailing to neighboring properties and a neighborhood council, and that mailing must take place in an 8-day window. But it is standard for the municipality to notify the applicant of this requirement *multiple days into the 8-day window*, thereby making it difficult for applicants to comply and ultimately pushing back the application to the following month's planning meeting. Overall, the applicant's initial permitting request must be filed at least 30 days ahead of a development review council meeting; followed by another month to resubmit (which is almost always necessary given that applicants are not notified of the mailing requirement until well into the window); followed by a commission workshop; followed by a *second* resubmittal deadline if any changes are required following the development council meeting; and followed a month later by a pre-planning commission meeting followed by a public commission hearing. The city uses this same extensive process regardless of the project type or whether there has already been a site plan previously approved for the same location. As a result, some projects may never move forward.

Fees. In USTelecom members' experience, the fees associated with permitting are excessive and can make deployment projects cost-prohibitive. For example, for one large provider, the total permitting fees charged by some municipalities can range from \$30,000 to \$50,000 per project. Our members have also found that permitting fees are often not cost-based. For instance, some states, including Utah and Montana, have in some instances compelled providers to pay gross revenue fees as part of their ROW agreements. As another example, Chicago recently implemented a ROW fee that is \$100 per-linear-foot for laying fiber in the city's tunnels. And one city in the Pacific Northwest sets fees based on the city's *revenue* needs, not actual costs for accessing the ROW. Municipalities in other states, such as Georgia and Ohio, also have fee requirements that are not cost-based and based on amorphous standards, such as the impact on automotive traffic. For small and mid-sized providers seeking to expand their footprint, these fees can greatly increase the costs of deployment, inhibiting the provider from

scaling their deployment as originally planned. Some providers have also been subjected to excessive survey costs. In one city in Florida, for example, survey costs can exceed \$40,000 depending on the scope of the permit.

Moreover, the impact of these fees on providers compounds due to various state, county, and municipal requirements. For instance, where a project spans state, county, and municipal roads, a provider must pay permitting fees to all three jurisdictions. Not only does this fragmentation add to the costs of a project, but it also causes delays given that the provider must wait on permits from multiple levels of government, not just one.

Furthermore, many localities are increasingly recognizing the decline in traditional telecom revenues and, as a result, are requiring new telecommunications franchise agreements for broadband networks with fees based on total project revenues and broadband revenues. In some cases, where a provider may already hold a franchise agreement, localities are delaying the deployment of new fiber broadband infrastructure until a franchise agreement is negotiated. The franchise approval timelines are also unreasonably long—it can take more than a year for approval in some parts of the South and the Pacific Northwest.

Franchise fee requirements are not cost-based; rather, they are a revenue opportunity for localities. Indeed, Minnesota has been trying to pass legislation that allows localities to demand franchise agreements for new broadband deployment to raise revenue. In general, franchise fees are 5 to 7% of a provider's gross revenue and may vary even among similarly situated providers, such as in Oregon. Some USTelecom members have made the difficult choice not to deploy in certain jurisdictions because of these fees. Our members have also encountered footage-based franchise fees in, for example, Alabama, Maryland, and Texas—non-cost-based fees that present a major cost obstacle for deployments at scale.

Some localities also require provision of discounted or free services to the locality in exchange for granting the franchise. In Alabama, for instance, one locality required free dark fiber or discounted lit services to be provided in exchange for the franchise. In Illinois, another provider was forced to install conduit and handholes for the locality as a condition of obtaining a franchise agreement.

Variances Among Jurisdictions. As illustrated above, there are significant variances in the permitting requirements among jurisdictions across the country. There is no consistent permitting methodology among states and localities for what information is required in permit applications between jurisdictions and no consistency on the costs imposed. Fees vary significantly between permitting entities, unmoored from actual costs. And different localities impose different requirements. As one example, a town in Washington required a broadband provider to pothole for all other utilities and to provide depths and locations of every utility in the ROW because the city did not have its own records and refused to use its franchise requirements to force the franchised utilities to produce this information. In another example, one city in Florida requires three hard copy full sets of each permit plus one hard copy full set of associated permits from other jurisdictions to be delivered to the municipality to complete the

approval process. Copies must be printed out in the correct non-standard paper sizes. Even such trivial paperwork requirements can add up to “death by a thousand paper cuts” for deployment projects. More broadly, complying with numerous vastly different requirements inefficiently drains company resources and generates investment-detering uncertainty at the outset of far too many projects. As a result of the high level of variance and the excesses of many jurisdictions, far too many American communities lose out on potential broadband deployment that could otherwise occur.

Please contact the undersigned with any questions.

Sincerely,

/s/ *Diana Eisner*

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